IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 23651 of 2004

Between:

Md.Mahaboob Ali, s/o Hyder Ali, Sweeper-cum-Watchman,
O/o The Mandal Parishad, Vemanpalli, Adilabad District.

..... PETITIONER

AND

1 The Chief Executive Officer, Zilla Parishad, Adilabad, Adilabad District.
2 The Deputy Chief Executive Officer, Zilla Parishad Adilabad, Adilabad District.
3 The District Collector, Adilabad.
4 The Commissioner of Panchayat Raj & Rural Development, A.P., Hyderabad.

5 The Secretary, Panchayat Raj, Department, Secretariat, Hyderabad.

(Respondent No.5 is impleaded as per Court orders dt.23.12.2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of WRIT OF CERTIORARI calling for the records relating to judgment passed in OA No.7734/2000 dt.01-10-2004 of the A.P. Administrative Tribunal, Hyderabad and quash the same and also declare the consequential proceedings No.P3/3768/2000

dated 09-11-2004 as illegal, arbitrary, discriminatory, violative of principles of natural justice and also violative of provisions of Constitution and set aside the same and consequently direct the respondents to continue the petitioner as Sweeper-cum-Watchman office of the Mandal Parishad, Vemanpally, Adilabad District on regular basis with all consequential benefits and pass such other order or orders.

Counsel for the Petitioner: MR.Y.S.VENKATA RAO

Counsel for the Respondents: GP FOR SERVICES-II.

The Court made the following:

ORAL ORDER: (per GB.J.)

This Court, in view of the facts and circumstances of the case impleads Government of Andhra Pradesh represented by Secretary, Panchayat Raj Department, Secretariat, Hyderabad.

2. The Writ Petition is filed challenging the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.7734 of 2000, dated 1.10.2004.

3. The petitioner was regularized in service by an order dated 19.4.2000. However, the same was sought to be cancelled by the 3rd respondent-District Collector, Adilabad by an order dated 14.6.2000. The said order was challenged by the petitioner before the Tribunal. The Tribunal, however, refused to interfere with the said order on the ground that the competent authority to regularize the services under G.O.Ms.No.112, dated 23.7.1997 is the Government and not the Chief Executive Officer, Zilla Parishad, Adilabad, 1st respondent herein, and dismissed the above O.A. Aggrieved by the said order, the present Writ Petition has been filed.

4. The learned counsel for the petitioner submits that for no fault of the petitioner, he is being relegated to the position prior to the regularization, which seriously affects his service and therefore the order of the Tribunal is liable to be set aside. He further submits on its administrative arrangement, it has to be made by the Zilla Parishad and the Government, and for which the petitioner cannot be made to suffer the consequences and hence he should be continued in the post in which he was regularized.

5. On the other hand the learned Government Pleader for Services-II submits that the competent authority is the Government under the Rules and therefore the order as such issued by the 1st respondent is not sustainable.

6. We find that the order of the 1st respondent is not sustainable and the Tribunal in its order also considered the said fact in the following paragraph:

> "The question of regularization of part time workers can be considered only in terms of G.O.Ms.No.112, dated 23.7.1997, but not under any other G.O. It is only the Government who are competent to issue such orders. It is in view of this only, the Commissioner of Panchayat Raj issued orders on 14.6.2000 directing all the Chief Executive Officers including the CEO of Adilabad to furnish proposals. It is in view of this only, the Tribunal in its interim orders accordingly stated that the interim orders shall not preclude the authorities from sending proposals to the Government through the Commissioner of Panchayat Raj. In view of this, the OA is disposed of with a direction to the Chief Executive Officer, Adilabad to furnish necessary regularization proposals of the applicant to the Government through the Commissioner of Panchayat Raj, if not already done".

But, however, the questions that calls for consideration is whether the service of the petitioner shall be regularized or not.

7. We find that the Government is the appropriate authority to consider this aspect under G.O.Ms.No.112, dated 23.7.1997. Therefore, we are of the considered view that the Government should consider the matter and pass appropriate orders within a period of two (02) months from the date of receipt of a copy of this order. Pending consideration of the above directions, the order passed by the 1st respondent-Chief Executive Officer, Zilla Parishad, Adilabad, shall not be given effect to.

8. With the directions indicated above, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

23rd December, 2004.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chief Executive Officer, Zilla Parishad, Adilabad, Adilabad District.
2 The Deputy Chief Executive Officer, Zilla Parishad Adilabad, Adilabad District.
3 The District Collector, Adilabad.
4 The Commissioner of Panchayat Raj & Rural Development, A.P., Hyderabad.

5 The Secretary, Panchayat Raj Department, Government of Andhra Pradesh Secretariat, Hyderabad.

6 The Registrar, A.P. Administrative Tribunal, Hyderabad.

7 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

8 2 CD copies.